

REMARKS

First, as a preliminary matter, the Examiner has improperly made the present Office Action a final Office Action. The present final Office Action is improper because the Examiner has applied a new reference, Nakamura et al. (U.S. Patent No. 5,913,039), as anticipating claim 1, which was not previously amended and which was previously rejected over a different reference, Stumm (U.S. Patent No. 5,768,528). Applicants representative contacted the Examiner to point out the impropriety of the final Office Action and the Examiner simply requested that we file an after-final response pointing out the impropriety of the final Office Action. Accordingly, Applicants respectfully submit that the Office Action dated February 16, 2005 is an improper **Final** Office Action and that this Amendment thus be entered as a matter of right.

Also, as a preliminary matter, claim 10 is objected to for the reasons set forth on page 2 of the Office Action. Applicants amend claim 10, as indicated herein, and believe that this amendment obviates the Examiner's objection to claim 10.

Claims 2-8, 10-13, 20-23, 25, 26, 28, and 29 are all the claims pending in the present application, wherein all but claim 29 stand rejected. Claim 29 is newly added. Claims 1 and 9 are canceled as indicated herein. As discussed below, Applicants traverse the rejections of claims 2-8, 10-13, 20-23, 25, 26, and 28.

Specifically, claims 1 and 9 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Nakamura. Claims 2, 3, 5-8, 10, 12, 13, 23, 26 and 28 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Nakamura in view of Shaffer et al. (U.S. Patent 6,600,817). Claims 4, 11, 20-22, and 25 are rejected under 35 U.S.C. § 103(a) as

allegedly being unpatentable over Nakamura in view of Shaffer as applied to the limitations of claim 2, and further in view of Logue et al. (U.S. Patent No. 5,935,207).

§103(a) Rejections (Nakamura / Shaffer) - Claims 2, 3, 5-8, 10, 12, 13, 23, 26 and 28

Claims 2, 3, 5-8, 10, 12, 13, 23, 26 and 28 are rejected for the reasons set forth on pages 4-9 of the present Office Action.

A brief description of the applied references is as follows.

Nakamura

Nakamura is directed to an on-demand communication system consisting of a plurality of clients and servers connected via a network. *See col. 1, lines 6-12*. An object of the invention of Nakamura is to provide a on-demand communication system which does not require time for processing the transmission request of the data stream while the video reproduction is proceeding (*see col. 4, lines 31-34*), and/or a system in which no jumping of the video reproduction occurs between a pause instruction and a pause cancel instruction (*see col. 4, lines 36-40*). In an embodiment of the invention of Nakamura (*see Fig. 5*), a client 501 transmits reproduction information to a server 520 and receives data streams corresponding to the transmitted reproduction information. The client can then reproduce and output the data streams received from the server 520, to a TV monitor 542, for example. The server 520 has the capability of temporarily storing the reproduction information and client identifier transmitted from the client, and creating a set of transmission information for each client, wherein the transmission information includes a title and a transmission start time that are equal to the title and the reproduction start time in the reproduction information. *See claim 1 of Nakamura*. Server 520 also has the capability of giving a transmission instruction when a transmission start time comes,

thereby permitting the transmission of a data stream which corresponds to the transmission information received from the client, to the client. The server capabilities described above allows the on-demand communication system of Nakamura to achieve the objects set forth above.

Shaffer

In an invention clearly different from that of Nakamura, Shaffer is directed to a telecommunications system in which calls are monitored and processed based on the time zone at a calling communications terminal. *See col. 1, lines 8-11*. The system of Shaffer seeks to prevent, for example, callers from unknowingly placing calls to target communication terminals at odd hours because of mistaken calculations of time differences between the originating communication terminal and the target communication terminal, or because a caller is unaware of the time difference. *See col. 1, line 14 - col. 3, line 54*. Shaffer seeks to provide time-dependent monitoring of communication connections to a target communications terminal when a call is initiated within a same time zone or a different time zone as the target communication terminal, so that the incoming call will not automatically be connected to the target communication terminal. *See col. 2, lines 24-30*.

With respect to claims 2, 6-8, 10, 13, 23, 26, and 28, the Examiner alleges that Nakamura substantially teaches the features set forth in each of these claims, however the Examiner acknowledges that Nakamura does not explicitly teach “wherein the server includes schedule management means for managing relevance between information representing areas and time zones of the respective areas, and an area determination means for determining in which area at least one client device having sent a request for transmission of information exists, and

information providing means for selecting classified information corresponding to a present time zone of the area which is determined by said area determination means.” *See bottom of page 5 of Office Action.* The Examiner, however, believes that Shaffer makes up for the deficiencies of Nakamura, and alleges that it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Shaffer and Nakamura to provide time-dependent monitoring of communication connections to a target communication terminal when a client makes a request from a different time zone, allowing the server to provide proper information according to the time zone of the client. *See top of page 6 of Office Action.*

With respect to independent claim 2, Applicants submit that neither Nakamura nor Shaffer, either alone or in combination, teaches or suggests at least, “information providing means for referring to said schedule management means, and for selecting classified information corresponding to a present time in a time zone of the area which is determined by said area determination means,” as recited in claim 2. As indicated above, the Examiner believes that the above-quoted feature is satisfied by secondary reference Shaffer. Shaffer, however, is not directed to selecting classified information corresponding to a present time in a time zone of an area [in which a client device exists], as described in claim 2. That is, Shaffer is primarily directed to providing the opportunity for a target communication terminal to receive or not receive a call from a source terminal during predetermined time periods. There is no mention in Shaffer of selecting classified information that corresponds to a present time in a time zone of an area of a source telephone (terminal), which the Examiner apparently believes corresponds to our claimed client device. Therefore, at least because Shaffer does not satisfy the feature of selecting classified information corresponding to a present time in a time zone of the area (in which a

client exists), Applicants submit that independent claim 2 is patentably distinguishable over Nakamura and Shaffer, either alone or in combination.

Applicants submit that independent claims 6-8, 10 and 13 are patentable at least for reasons similar to those set forth above with respect to claim 2, as claim 6-8, 10 and 13 recite features similar to the above-discussed features of claim 2.

With respect to dependent claims 3, 5 and 12, Applicants submit that these claims are patentable at least by virtue of their respective dependencies from independent claims 2 and 10.

Yet further, with respect to all of the claims rejected over Nakamura and Shaffer, Applicants submit that one skilled in the art would not have been motivated to combine the teachings of Shaffer with Nakamura. First, Nakamura is directed to an on-demand communication system in which a multi-media server can provide data to a plurality of clients via a network upon a request of a user at one of the clients. On the other hand, Shaffer is simply directed to a communication system for regulating when a call from a source caller will be allowed through to a target terminal during predetermined times. In Shaffer, there is no demand from a source terminal for data to be sent thereto from a target terminal; as indicated above, in Shaffer, there is no consideration of the state of the source terminal (i.e., its time zone, requested information, etc); and there is no transfer of data streams from target terminals to source terminals. Therefore, at least based on the foregoing and absent impermissible hindsight reasoning, one skilled in the art, in view of Nakamura and Shaffer, would not have been led to combine these two references.

Furthermore, even if, *arguendo*, the teachings of Shaffer were incorporated into Nakamura, such combination would not have resulted in the allowance of the server to provide

information to a client according to the time zone of the client, as the Examiner alleges. If anything, the combination of the teachings of the two different references would have only resulted in the regulation of when a request would be received at a server device based on a predetermined time at the server device. However, there would have been no selection of information corresponding to a present time in a time zone of the area of a client device, as discussed above.

§103(a) Rejections (Nakamura/Shaffer/Logue) - Claims 4, 11, 20-22 and 25

Claims 4, 11, 20-22 and 25 are rejected for the reasons set forth on pages 7-9 of the present Office Action.

With respect to dependent claims 4 and 11, Applicants submit that these claims are patentable at least by virtue of their respective dependencies from independent claims 2 and 10. Logue does not make up for the deficiencies of Nakamura and Shaffer.

Also, with respect to claims 4-11, 20, 22 and 25, Applicants maintain that one skilled in the art would NOT have been led to combine Nakamura, Shaffer, and Logue (specifically Nakamura and Shaffer) at least for the reasons set forth above.

§102(b) Rejections (Nakamura) - Claims 1 and 9

Claims 1 and 9 are canceled as indicated herein without prejudice or disclaimer.

Also, Applicants note that the Examiner makes comments in the *Response to Arguments* section of the present Office Action to support his rejections of the claims. The Examiner's comments in the *Response to Arguments* section do not substantially elaborate on the arguments in the body of the Office Action.

Also, Applicants note that the Examiner, on page 12 of the Office Action, requests Applicant to isolate the portions of the specification which dictates the structure relied on to a proper interpretation in accordance with 35 U.S.C. § 112, sixth paragraph. In response, Applicants submit that structures that correspond to the claimed means-plus-function elements of the claimed “said server device”, as set forth in claim 1 for example, can be found in Fig. 2A. Structures that correspond to the claimed means-plus-function elements of the “said at least one client device”, as recited in claim 1 for example, can be found in Fig. 2B. Figs. 2A and 2B are discussed on pages 17-19 of the present specification. Lastly, structures that correspond to the claimed means-plus function-elements of the claimed “said intermediate device”, as set forth in claim 4 for example, can be found in Fig. 9. These means-plus-function elements of the intermediate device are discussed in the paragraph bridging pages 31-32 of the present specification. Applicants believe, at least based on the discussion above, that the Examiner’s request is satisfied.

Finally, Applicants add new claim 29 to provide a varying scope of coverage. This new claim corresponds to dependent claim 11, except claim 29 is directed to the second function of the counting means. Applicants submit that this new claim is patentable at least by virtue of its dependency from independent claim 10.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.116
U. S. Application No. 09/717,019

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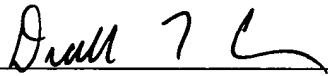
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